

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

NICK JAMES GONZALES,

Petitioner,

v.

No. CV 14-1001 MV/KBM

GERMAN FRANCO,
NEW MEXICO CORRECTIONS DEPARTMENT,

Respondents.

ORDER TO CURE DEFICIENCY

Petitioner submitted a Motion for Preliminary Injunction seeking certain relief from state court proceedings and leave to file an application for writ of habeas corpus and proceed in forma pauperis in this Court. The Court has almost no authority to enjoin pending state court matters, *see Knox v. Bland*, 632 F.3d 1290, 1292 (10th Cir. 2011), and leave of the Court is not required before filing habeas corpus pleadings. If Petitioner wishes to pursue injunctive relief exclusively, his pleading will be treated as initiating a regular civil action. If he wishes to commence a habeas corpus proceeding, his documents are deficient as described in this order, and he must cure the following if he wishes to pursue his claims:

I. Prisoner's Application to Proceed in District Court Without Prepaying Fees or Costs:

- (1) X is not filed
- (2) is missing affidavit
- (3) is missing required financial information
- (4) is missing certified copy of prisoner's trust fund statement for the 6-month period immediately preceding this filing

II. Habeas Corpus Petition or Application:

- (1) is missing
- (2) X is not on proper form
- (3) is missing an original signature by the prisoner

(4) ____ is missing page nos. ____

Failure to timely and adequately respond to this Order may result in dismissal of the petition without prejudice without further notice.

IT IS THEREFORE ORDERED that, within twenty-one (21) days from the date of this Order, Petitioner either (1) file a response clearly indicating his intention to pursue injunctive relief, or (2) cure the deficiencies designated above. Any papers that Petitioner files in response to this order must include the cause number (CV 14-1001 MV/KBM) of this case.

IT IS FURTHER ORDERED that the Clerk of the Court mail to Petitioner, together with a copy of this order, the following forms: a § 2241 habeas corpus application with instructions and an Application to Proceed in District Court Without Prepaying Fees or Costs.


UNITED STATES CHIEF MAGISTRATE JUDGE